

EXHIBIT E

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PLEA

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x

3 UNITED STATES OF AMERICA,

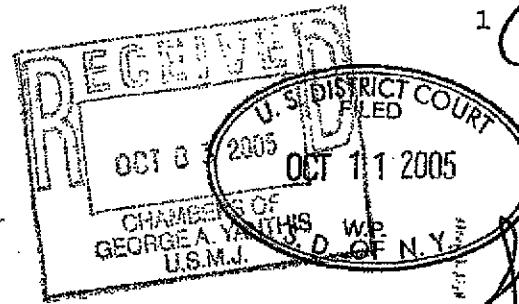
4 v.

5 SAMUEL ISRAEL, III,

6 Defendant.

7 -----x

05 Cr. 1039 SCR GAY



8 September 29, 2005
9 12:30 p.m.
10 White Plains, N.Y.

11 Before:

12 HON. GEORGE A. YANTHIS,

13 Magistrate Judge

14 APPEARANCES

15 MICHAEL J. GARCIA
16 United States Attorney for the
17 Southern District of New York

18 MARGERY B. FEINZIG

19 PERRY CARBONE

20 Assistant United States Attorneys

21 MORVILLO, ABRAMOWITZ, GRAND, IASON & SILBERBERG
22 Attorney for Defendant

23 LAWRENCE BADER

24 BARBARA L. BALTER

25 BARRY BOHRER

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1 THE COURTROOM DEPUTY: United States v. Samuel Israel,
2 III.

3 MS FEINZIG: Margery Feinzig and Perry Carbone for the
4 government.

5 MR. BADER: Lawrence Bader of Morvillo, Abramowitz,
6 Grand, Iason and Silberberg for Mr. Israel. With me is Barbara
7 Balter and Barry Bohrer.

8 THE COURT: We're here for the waiver of indictment,
9 the filing of an information, and the entry of a plea.
10 Ms Hilbert, please swear the defendant.

11 (Defendant sworn)

12 BY THE COURT:

13 Q. Mr. Israel, you are now under oath and are sworn to tell
14 the truth. If you knowingly made a false statement, you could
15 be charged with perjury or making a false statement, do you
16 understand that?

17 A. Yes.

18 Q. What is your name, please?

19 A. Samuel Israel III.

20 Q. How old are you?

21 A. 46 years old.

22 Q. How far did you go in school?

23 A. Three and half years of college.

24 Q. Do you speak, understand, read and write the English
25 language?

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1 A. Yes, your Honor.

2 Q. Are you presently under the care of any doctor or
3 psychiatrist?

4 A. Yes, your Honor.

5 Q. Which one?

6 A. Sorry, psychiatrist.

7 Q. Are you able to understand the proceedings here today okay?

8 A. Yes, your Honor.

9 Q. Have you ever been hospitalized or treated for alcoholism
10 or narcotics addiction?

11 A. Yes, your Honor.

12 Q. Does that affect your ability to understand what's going on
13 here today?

14 A. No, your Honor.

15 Q. Are you currently under the influence of any drugs,
16 alcohol, medicine or pills?

17 A. I wear a fentanyl patch, your Honor, for chronic pain. I
18 had eleven spinal surgeries.

19 Q. That does not affect your ability to understand?

20 A. No.

21 Q. Do you suffer from any other physical or mental problem
22 which prevents you from understanding the proceedings?

23 A. No, your Honor.

24 Q. You do have the absolute right to be represented by an
25 attorney at this and at every stage of the proceedings against

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1 you. If you could not afford an attorney, the Court would
2 appoint you one. And the right to an attorney goes to every
3 stage of the criminal proceedings including trial and appeal,
4 do you understand that?

5 A. Yes, your Honor.

6 Q. Now, you have retained Mr. Bader to represent you in the
7 case?

8 A. Yes, your Honor.

9 Q. Are you satisfied with the services that he has provided to
10 you so far?

11 A. Very much so, your Honor.

12 THE COURT: Ms Hilbert, if you would verify the
13 defendant's signature on the waiver, please.

14 BY THE COURTROOM DEPUTY:

15 Q. You are Samuel Israel III?

16 A. Yes.

17 Q. Is that your original signature signed today, September 29,
18 2005?

19 A. Yes.

20 Q. Before signing this waiver, have you discussed it with your
21 attorney?

22 A. Yes.

23 Q. He has explained this waiver to you?

24 A. Yes, ma'am.

25 Q. Have you signed it voluntarily?

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1 A. Yes, ma'am.

2 Q. Do you understand you are under no obligation to waive
3 indictment?

4 A. Yes, ma'am.

5 Q. Do you also understand if you don't waive indictment and if
6 the government wants to prosecute you, they would have to
7 present your case to a grand jury which may or may not indict
8 you?

9 A. Yes, ma'am.

10 Q. Do you understand what a grand jury is?

11 A. Yes, ma'am.

12 Q. Have you seen a copy of this felony information?

13 A. Yes, ma'am.

14 BY THE COURT:

15 Q. Mr. Israel, unless you waive indictment, you could not be
16 charged with a felony unless a grand jury finds probable cause
17 to believe that a crime has been committed and that you
18 committed it, do you understand that?

19 A. Yes.

20 Q. A grand jury is composed of at least 16 and not more than
21 23 persons. At least 12 grand jurors must find probable cause
22 to believe that a crime has been committed before you could be
23 indicted. Do you understand that?

24 A. Yes, your Honor.

25 Q. If you waive indictment, this case will proceed on the

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1 charges in the United States Attorney's information just as
2 though you had been indicted. Do you understand that?

3 A. Yes, your Honor.

4 Q. Have you discussed waiving your right to indictment by the
5 grand jury with your attorney?

6 A. I have, your Honor.

7 Q. Have any threats or promises been made to induce you to
8 waive indictment?

9 A. No, your Honor.

10 Q. Do you wish to waive your right to indictment by the grand
11 jury?

12 A. I do, your Honor.

13 THE COURT: The Court finds that the defendant has
14 knowingly and voluntarily waived his right to indictment by the
15 grand jury. The information will be accepted for filing. The
16 Court will enter a not guilty plea at this time and direct the
17 clerk to draw out the name of the assigned district court
18 judge.

19 THE COURTROOM DEPUTY: This is a Wheel A case, Judge.

20 THE COURT: The case has been assigned to Judge
21 Robinson.

22 Q. I do advise you, Mr. Israel, that you have the absolute
23 right to have this guilty plea proceeding conducted before
24 Judge Robinson who is the district court judge that would be
25 imposing sentence in your case. Do you understand that?

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1 A. Yes, your Honor.

2 Q. However, if you consent and agree, I will conduct the
3 guilty plea proceeding here today. I will then report and
4 recommend to Judge Robinson as to whether or not your guilty
5 plea should be accepted. I will make that recommendation based
6 on everything that is brought out during the proceeding here
7 today. It is important for you to understand that the Court
8 need not accept your plea of guilty unless it's satisfied that
9 you are guilty and that you understand all your rights. Do you
10 understand that?

11 A. I do, your Honor.

12 Q. Is it your wish that I conduct the guilty plea proceeding
13 here today, do you want me to do it?

14 A. It is, your Honor.

15 THE COURT: There's a consent form.

16 BY THE COURTROOM DEPUTY:

17 Q. Once again, that is your original signature signed today,
18 September 29, 2005?

19 A. Yes, ma'am.

20 BY THE COURT:

21 Q. Did anyone threaten you or coerce you or promise you
22 anything to get you to consent to proceed before me here today?

23 A. No, your Honor.

24 Q. Did you sign this consent form freely and voluntarily?

25 A. Yes.

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1 THE COURT: The Court finds that the defendant has
2 knowingly and voluntarily consented to proceed before a United
3 States magistrate judge on this felony plea allocution.

4 It's my understanding that there is no plea agreement
5 in the case but a *Pimentel* letter?

6 MR. BADER: That's correct, your Honor.

7 Q. I just want to advise you, Mr. Israel, that the
8 government's estimate of your sentencing guideline range in
9 this September 29, 2005 letter from the United States Attorney
10 to your attorney is just that, it's an estimate, it's not
11 binding on the district court judge who will be imposing
12 sentence. Do you understand that?

13 A. Yes.

14 Q. The district court judge could come up with a guideline
15 range that is higher or lower than what is set forth here, do
16 you understand that?

17 A. Yes, your Honor.

18 Q. Now, have you reviewed the charges that are pending against
19 you?

20 A. I have, your Honor.

21 Q. Do you understand those charges?

22 A. I do, your Honor.

23 Q. Have you discussed them with your attorney?

24 A. Yes, your Honor.

25 Q. Do you understand that anything which is not disclosed to

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1 me during the course of this proceeding will not be binding on
2 the outcome your case, everything has to be disclosed? Do you
3 understand that?

4 A. I do, your Honor.

5 THE COURT: Ms Feinzig, could you advise the defendant
6 of the maximum possibility penalties that he faces on his pleas
7 of guilty.

8 MS FEINZIG: Yes, your Honor.

9 On the first count, which is conspiracy to commit
10 investment adviser fraud and mail fraud, the defendant faces a
11 maximum sentence of five years imprisonment, \$250,000 -- the
12 greater of \$250,000 or twice the gross gain or twice the gross
13 loss, three years supervised release, a maximum amount of
14 restitution of \$300,000,000, forfeiture and a hundred dollar
15 special assessment.

16 On Count 2, which is investment adviser fraud, the
17 maximum sentence is five years imprisonment, three years
18 supervised release, a fine of the greater of \$250,000 or twice
19 the gross gain or twice the gross loss, a maximum restitution
20 amount of \$300,000,000, forfeiture and a hundred dollar special
21 assessment.

22 And on Count 3, the mail fraud count, the maximum
23 sentence is 20 years imprisonment, three years supervised
24 release, a fine of the greater of \$250,000 or twice the gross
25 gain or twice the gross loss, a maximum restitution amount of

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1 \$300,000,000, forfeiture, and a hundred dollar special
2 assessment.

3 Q. Mr. Israel, did you hear what the assistant United States
4 attorney just said?

5 A. I did, your Honor.

6 Q. Do you understand that those are the maximum possible
7 penalties that you face on your pleas of guilty?

8 A. I understand, your Honor.

9 Q. Do you understand that if you are sentenced to a term of
10 imprisonment, even if it was the maximum term, and to a term of
11 supervised release, and if you violate the terms of supervised
12 release you could be sentenced to an additional term of
13 imprisonment for violating conditions of supervised release?

14 Do you understand that?

15 A. I understand, your Honor.

16 Q. Do you understand that if that were to occur, you would not
17 receive credit against any additional sentence for the jail
18 time had you already served, nor for the time you had served on
19 supervised release? Do you understand that?

20 A. I understand, your Honor.

21 Q. You are pleading guilty to a felony offense. Such
22 adjudication may deprive you of valuable civil rights such as
23 the right to vote, the right to hold public office, the right
24 to serve on a jury, the right to possess any type of firearm,
25 and you could forfeit the right to possess certain professional

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1 licenses; these are just examples. Do you understand that?

2 A. I understand, your Honor.

3 Q. Are you a United States citizen?

4 A. I am, your Honor.

5 Q. Do you understand, Mr. Israel, that what I've gone over are
6 the possible consequences of a plea of guilty, these are the
7 things that could happen to you?

8 A. I understand, your Honor.

9 Q. Have you and your attorney talked about how the Sentencing
10 Guidelines may apply to your case?

11 A. We have spoken about it, your Honor.

12 Q. Do you understand that the Sentencing Guidelines are not
13 mandatory but they must be considered by the district court
14 judge when imposing sentence in your case?

15 A. I understand that, your Honor.

16 Q. Do you understand that the Court will not be able to
17 determine the guideline range for your case until after a
18 presentence report has been completed, you and the government
19 will have an opportunity to review that report? You could
20 challenge any facts in that report, and you could challenge the
21 report's computation of your sentencing guideline range. Do
22 you understand that?

23 A. I understand, your Honor.

24 Q. Do you understand that under certain circumstances, both
25 you and the government have the right to appeal any sentence

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1 that the Court would impose subject to the terms of anything
2 set forth on the record here today? Do you understand that?

3 A. I understand, your Honor.

4 THE COURT: And there are no appeal waivers in this
5 plea.

6 MS FEINZIG: That's correct, your Honor.

7 Q. Do you understand that parole has been abolished? If you
8 are sentenced to a term of imprisonment, you will not be
9 eligible for an early release on parole? There's no parole in
10 the federal system.

11 A. I understand, your Honor.

12 Q. Do you understand that if you disagree with the sentencing
13 guideline determination which is made by the Court, that will
14 not constitute a basis for you to withdraw your plea of guilty?

15 A. I understand, your Honor.

16 Q. Do you understand that you do not have to plead guilty in
17 this matter? You have the absolute right to have this matter
18 tried. If you chose to plead not guilty, you are entitled to a
19 speedy and public trial and your case could be decided by a
20 jury. Do you understand?

21 A. I understand that, your Honor.

22 Q. Also, if both you and the government agree, your case could
23 be decided by a judge alone without a jury. Do you understand?

24 A. I do understand, your Honor.

25 Q. If there was a trial, the presumption of innocence would

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1 remain in your favor throughout the entire trial. The
2 government would have the burden at any trial of proving your
3 guilt beyond a reasonable doubt as to each and every element of
4 the crimes charged. And if tried by a jury, the government
5 would have to prove your case to the unanimous satisfaction of
6 each and every member of the jury before you could be found
7 guilty. Do you understand that?

8 A. I understand, your Honor.

9 Q. If there was a trial, you would have the right, with the
10 assistance of your attorney, to cross-examine and confront the
11 witnesses against you; you would have the right to call
12 witnesses to testify on your behalf; and you would have the
13 right to have subpoenas issued to compel witnesses to give
14 testimony on your behalf. You would also have the right at any
15 trial to testify on your own behalf, but only if you wish, you
16 could not be compelled to testify, and if you chose not to
17 testify, no unfavorable inference would be drawn against you
18 because of that. Do you understand?

19 A. I understand, your Honor.

20 Q. If there was a trial, you would be entitled to the
21 assistance of your attorney and to have an attorney assigned to
22 represent you without cost if you could not afford an attorney.
23 Do you understand?

24 A. I understand, your Honor.

25 Q. Do you understand, Mr. Israel, that by pleading guilty to

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1 the charges here today, you are giving up your right to a
2 trial, there will not be a trial in this matter?

3 A. I understand that, your Honor.

4 THE COURT: Ms Feinzig, what would the government be
5 prepared to prove if this matter did proceed to trial.

6 MS FEINZIG: Your Honor, the elements of the first
7 count, the conspiracy count, are the following:

8 First, that two or more persons entered into the
9 unlawful agreement charged in the information;

10 Second, that the defendant knowingly and willfully
11 became a member of the conspiracy;

12 Third, that one of the members of the conspiracy
13 knowingly committed at least one of the overt acts charged in
14 the information;

15 And fourth, that the overt acts which are found to
16 have been committed were committed to further some objective of
17 the conspiracy.

18 In connection with Count 2, the investment adviser
19 fraud count, the government would have to prove that the
20 defendant was an investment adviser, and that the defendant had
21 utilized the mails or any instruments of interstate commerce to
22 do one or more of the following: Employ a device, scheme or
23 artifice to defraud investors, engage in actions, practices and
24 courses of business which operated as a fraud and deceit upon
25 clients and prospective clients, or engage in acts, practices

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1 and courses of business that were fraudulent, deceptive and
2 manipulative. And finally, that the defendant acted knowingly
3 and willfully.

4 In connection with the mail fraud count, the
5 government would have to prove first that there was a scheme or
6 artifice to defraud or to obtain money or property by
7 materially false and fraudulent pretenses, representations or
8 promises, as alleged in the information. Second, that the
9 defendant knowingly and willfully participated in the scheme or
10 artifice to defraud with knowledge of its fraudulent nature and
11 with a specific intent to defraud. And third, that in
12 execution of that scheme, the defendant used or caused the use
13 of the mails as specified in the information.

14 In order to establish the elements of these crimes,
15 the government would prove at trial, based on documentary
16 evidence and testimony of witnesses, that during the time
17 period set forth in the information, Samuel Israel and his
18 co-conspirators perpetrated a fraud on investors and
19 prospective investors of the Bayou Hedge Funds by
20 misrepresenting the value of the Hedge Funds' assets, and
21 including these misrepresentations to be mailed to current and
22 prospective investors in the Southern District of New York and
23 elsewhere. These false and misleading statements and
24 representations induced new investors to invest in Bayou and
25 lulled existing investors into retaining their investments in

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1 the Bayou Hedge Funds.

2 The evidence would establish that Mr. Israel, who was
3 a founder and the chief executive officer of Bayou Management,
4 was responsible for executing securities trading on behalf of
5 all the Bayou Hedge Funds. He and his co-conspirators caused
6 to be mailed quarterly reports to investors that contained
7 fictitious rates of return on trading in the funds and annual
8 financial statements that contained fictitious rates of return
9 on trading and inflated net assets values. Mr. Israel and his
10 co-conspirators also had faxed and mailed weekly newsletters
11 that also misrepresented the performance of the funds at
12 various times during the time period set forth in the
13 information. All these communications to investors made it
14 appear that Bayou was earning profits on trading when in fact
15 it was not.

16 In furtherance of the scheme and because Bayou could
17 not use an actual certified public accounting firm to audit the
18 funds and certify the annual financial statements, Mr. Israel
19 had his co-conspirator and chief financial officer in early
20 1999 form a phony accounting firm name Richmond Fairfield
21 Associates. And year after year between 1999 and 2004, the
22 co-conspirators had Bayou's false financial statements sent out
23 with a fictitious certification by Richmond Fairfield
24 Associates that the funds had been audited and the financial
25 statements were accurate.

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1 The evidence would further establish that in 2004,
2 Mr. Israel stopped trading and attempted to conduct private
3 placements transactions in Europe and in the United States.
4 This use of Bayou funds was not disclosed to investors.
5 Indeed, communications to investors during that time period
6 falsely indicated that trading was still going on.

7 According to the evidence the government would
8 present, the effect of these false statements was to induce
9 investors to invest in excess of \$450,000,000 in the Bayou
10 Hedge Funds.

11 BY THE COURT:

12 Q. Did you hear what the assistant United States attorney just
13 said?

14 A. I did, your Honor.

15 Q. Do you agree with that?

16 A. I do, your Honor.

17 Q. Have you clearly and fully understood everything that has
18 happened here today so far?

19 A. Absolutely, your Honor.

20 Q. Do you have any questions of your attorney or the Court
21 before I continue?

22 A. I do not, your Honor.

23 Q. I am going to summarize the counts in the felony
24 information and take your plea. Count 1, the United States
25 Attorney charges:

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1 During the relevant time period, Bayou sustained
2 trading losses in order to induce investors to invest in Bayou
3 and to lull existing investors into retaining their investments
4 in Bayou. The defendant and co-conspirators not named herein
5 perpetrated a scheme to defraud investors by disseminating
6 reports and financial statements among other things that
7 contained materially false statements and by failing to invest
8 investors' funds as promised.

9 Among the means and methods by which Israel and
10 co-conspirators not named herein would and did carry out the
11 conspiracy were the following:

12 Israel and a co-conspirator reported fictitious rates
13 of return by the Bayou Hedge Funds in quarterly reports and had
14 those reports mailed to investors.

15 Israel and a co-conspirator reported fictitious rates
16 of return of the Bayou Hedge Funds in weekly newsletters and
17 had those newsletters emailed or faxed to investors.

18 Israel and a co-conspirator reported individual
19 investor's inflated accumulated profits in monthly reports and
20 had those reports mailed to investors.

21 Israel and his co-conspirators had annual financial
22 statements mailed to investors that contained among other
23 misrepresentations, inflated rates of return on trading,
24 inflated net asset values, and certifications that Bayou had
25 been audited by a certified public accounting firm known as

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1 Richmond Fairfield Associates.

2 In or about early 1999, a co-conspirator created the
3 phony accounting firm Richmond Fairfield Associates and it
4 conducted no audits. Between in or about the fall of 2003 and
5 in or about August 2005, Israel and a co-conspirator entered
6 and attempted to enter into private financial transactions
7 using money from the Bayou Hedge Funds without disclosing the
8 nature of those transactions to investors.

9 From in or about July 1996 through in or about August
10 2005, Israel and his co-conspirators induced investors to
11 contribute in excess of \$450,000,000 to the Bayou Hedge Funds.

12 From in or about July 1996 to in or about August 2005
13 in the Southern District of New York and elsewhere, Samuel
14 Israel, the defendant, and co-conspirators not named herein
15 unlawfully, willfully and knowingly did combine, conspire,
16 confederate and agree together and with each other to commit
17 offenses against the United States, to wit, investment adviser
18 fraud in violation of Title 15 United States Code Sections
19 80b-6 and 80b-17, and mail fraud in violation of Title 18
20 United States Code Section 1341.

21 It was part and object of the conspiracy that Samuel
22 Israel, the defendant, and co-conspirators not named herein,
23 acting as investments advisers with respect to one and more
24 clients and prospective clients in the Bayou Hedge Funds,
25 unlawfully willfully and knowingly, by the use of the mails and

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1 means and instrumentalities of interstate commerce, directly
2 and indirectly, did employ, devices, schemes and artifices to
3 defraud clients and prospective clients; engage in
4 transactions, practices and courses of business which operated
5 as a fraud and deceit upon clients and prospective clients; and
6 engage in acts, practices and courses of business that were
7 fraudulent, deceptive and manipulative in violation of Title
8 15, United States Code Sections 80b-6 and 80b-17.

9 It was further a part and object of the conspiracy
10 that Samuel Israel, the defendant, and co-conspirators not
11 named herein, unlawfully, willfully and knowingly, having
12 devised and intending to devise a scheme or artifice to
13 defraud, and through obtaining money and property by means of
14 false and fraudulent representations, representations and promises,
15 did place and cause to be placed in a post office and
16 authorized depository for mail matter, matters and things to be
17 sent and delivered by the Postal Service and private and
18 commercial interstate carriers, and did take and receive
19 therefrom such matters and things in violation of Title 18
20 United States Code Section 1341.

21 In furtherance of said conspiracy and to effect the
22 illegal objects thereof, the following overt acts among others
23 were committed in the Southern District of New York and
24 elsewhere. And I'm going to read overt acts A and I.

25 A. At various times from in or about July 1996

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1 through in or about August 2005, Israel traded securities on
2 behalf of Bayou through computers located in Westchester
3 County, New York, and at Bayou's offices in Stamford,
4 Connecticut.

5 I. At various times between in or about May 2003 and
6 in or about August 2005, a co-conspirator invested money
7 contributed to the Bayou Hedge Funds in private placement
8 transactions, all in violation of Title 18 United States Code
9 Section 371.

10 To Count 1, how do you plead, guilty or not guilty?

11 A. I plead guilty, your Honor.

12 Q. Count 2. The United States Attorney further charges from
13 in or about July 1996 to in or about August 2005 in the
14 Southern District of New York and elsewhere, Samuel Israel, the
15 defendant, and co-conspirators not named herein, acting as
16 investment advisers with respect to clients and prospective
17 clients in the Bayou Hedge Funds, unlawfully, willfully and
18 knowingly, by the use of the mails and means and
19 instrumentalities of interstate commerce, directly and
20 indirectly did:

21 A. Employ devices, schemes and artifices to defraud
22 clients and prospective clients.

23 B. Engage in transactions, practices and courses of
24 business which operated as a fraud and deceit upon clients and
25 prospective clients;

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1 and C. Engaged in acts, practices and courses of
2 business that were fraudulent, deceptive and manipulative, in
3 violation of Title 15 United States Code Sections 80b-6 and
4 80b-17 and Title 18 United States Code Section 2.

5 How do you plead, guilty or not guilty?

6 A. I plead guilty, your Honor.

7 Q. The United States Attorney further charges from in or about
8 July 1996 through in or about August 2005 in the Southern
9 District of New York and elsewhere, Samuel Israel, the
10 defendant, and co-conspirators not named herein, having devised
11 and intending to devise a scheme and artifice to defraud and to
12 obtain money and property by means of false and fraudulent
13 pretenses, representations and promises, namely the scheme set
14 forth above for the purpose of executing such scheme and
15 artifice and attempting to do so, did place and cause to be
16 placed in a post office and authorized depository for mail
17 matter, matters and things to be sent and delivered by the
18 Postal Service and private and commercial interstate carriers,
19 and did take and receive therefrom such matters and things,
20 namely quarterly reports, monthly reports and annual financial
21 statements, in violation of Title 18 United States Code
22 Sections 1341 and 2.

23 To Count 3, how do you plead, guilty or not guilty?

24 A. I plead guilty, your Honor.

25 Q. There's also a forfeiture allegation where the defendant

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1 Samuel Israel is agreeing to the forfeiture of a sum of money
2 equal to \$450,000,000 representing the amounts of proceeds
3 obtained as a result of the mail fraud and conspiracy offenses
4 alleged in Counts 1 and 3.

5 MS FEINZIG: Your Honor, in connection with the
6 forfeiture allegation, the defendant is not required to
7 allocute to that. It's really in the information as a notice
8 provision.

9 THE COURT: All right.

10 Q. Do you agree with that, Mr. Israel?

11 A. Yes, your Honor.

12 Q. You have notice and you agree to the forfeiture?

13 MR. BADER: We are agreeing that we have notice of the
14 forfeiture provision.

15 THE COURT: Is that all that the government is
16 requiring?

17 MS FEINZIG: Yes, your Honor.

18 THE COURT: All right.

19 Q. Mr. Israel, has anyone made any promises to you other than
20 what has been set forth on the record here today in order to
21 induce you to plead guilty to those charges?

22 A. No, your Honor.

23 Q. Has anyone threatened you or coerced you to get you to
24 plead guilty?

25 A. No, your Honor.

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1 Q. Has anyone put any pressure on you or done anything
2 improper to you to get you to plead guilty?

3 A. No, your Honor.

4 Q. Has anyone made any specific promises to you about what
5 your sentence will be in this matter?

6 A. No, your Honor.

7 Q. Mr. Israel, in your own words you are now going to have to
8 tell me what you did in connection with these charges that
9 you're pleading guilty to.

10 A. Yes, your Honor. During the relevant time period, I was
11 chief executive officer of Bayou Management and chief
12 investment officer of the Bayou Fund. I was one of the people
13 responsible for trading securities on behalf of all the funds.
14 I, along with others, caused Bayou to send various kinds of
15 documents containing false financial information about Bayou's
16 performance to current and prospective clients of Bayou which
17 made it appear that Bayou was performing better than it truly
18 was. My purpose was to induce these people to invest in Bayou
19 or continue to keep their money in Bayou. These false material
20 statements were disseminated through the mails and by email to
21 people in places that included the Southern District of New
22 York. At the time that Bayou sent out these false materials, I
23 knew that the terms were false and I knew what I was doing was
24 wrong and fraudulent.

25 Q. Did you do the acts that you just talked about knowingly

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1 and willfully, you knew what you were doing?

2 A. I did, your Honor.

3 Q. Are you pleading guilty to these charges because you are in
4 fact guilty of the crimes charged?

5 A. Yes, your Honor. I am guilty.

6 Q. Did anyone force you or coerce you or threaten you or
7 pressure you to do those acts?

8 A. No, your Honor.

9 THE COURT: Does the government have any further
10 inquiry?

11 MS FEINZIG: No thank you, your Honor.

12 THE COURT: All right.

13 Mr. Bader, are you satisfied with the state of the
14 record?

15 MR. BADER: Yes, your Honor.

16 THE COURT: Do you know of any reason why the Court
17 should not accept a plea of guilty?

18 MR. BADER: No, your Honor.

19 Q. Mr. Israel, have you clearly and fully understood
20 everything that has happened here today?

21 A. I understand everything, your Honor.

22 THE COURT: Upon this allocution, the Court finds that
23 the defendant is fully competent and capable of entering an
24 informed plea of guilty. The plea is knowing and voluntary.

25 The plea is supported by an independent factual basis for each

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1 and every element of the crimes charged.

2 Accordingly, I report and recommend to Judge Robinson
3 that the plea be accepted and that the defendant be adjudged
4 guilty of the crimes charged. I direct that a presentence
5 investigation be conducted by the United States Probation
6 Office. I further direct the court reporter to provide a
7 transcript of these proceedings which sets forth my report and
8 recommendation to Judge Robinson.

9 The matter will be adjourned for sentencing until
10 January 9, 2006 at two p.m. That's your sentencing date before
11 Judge Robinson.

12 This is the defendant's first appearance in court?

13 MS FEINZIG: It is your Honor. In connection with
14 bail, your Honor, I've spoken with Mr. Bader and we recommend
15 that the Court adopt the recommendation of the Pretrial
16 Services officer and have the amount of the bond be \$500,000.

17 THE COURT: Mr. Bader, any comment?

18 MR. BADER: No. We think that's a reasonable
19 unsecured PRB, your Honor.

20 THE COURT: I have reviewed the Pretrial Services
21 report and I am going to accept the recommendation that has
22 been made. The bond is set in the amount of a \$500,000
23 personal recognizance bond to be co-signed by three financially
24 responsible persons. Did you have a time period?

25 MS FEINZIG: Yes, your Honor. The government would

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1 consent to allowing Mr. Israel to have two weeks to bring
2 forward his financially responsible people.

3 THE COURT: All right. Two weeks to produce the
4 financially responsible people to the United States Attorney.

5 I am going to direct that there be pretrial
6 supervision with mental health counseling and substance abuse
7 counseling or treatment if necessary under the guidance of the
8 Pretrial Services Office. Do you have a passport?

9 THE DEFENDANT: My passport was revoked, sir.

10 MS FEINZIG: The government is in possession of the
11 passport.

12 THE COURT: I will direct that you not make
13 application for any other passport or travel documents while
14 you're on release. Your travel will be restricted to the
15 Eastern District of New York and Southern District of New York.

16 And as far as your pretrial supervision, if the
17 pretrial supervision officer tells you to do something it's
18 just like the court telling to you do it and you have to do it.

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: The following conditions will also be
21 imposed. You should not commit any offense in violation of
22 federal, state or local law while on release. You shall
23 immediately advise the Court, defense counsel and the United
24 States Attorney in writing prior to any change of address or
25 telephone numbers. You shall appear at all proceedings as

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1 required. You shall refrain from possessing a firearm,
2 destructive device or other dangerous weapon. You shall
3 refrain from excessive use of alcohol. You shall refrain from
4 any use or unlawful possession of a narcotic drug or other
5 controlled substance unless prescribed by a licensed medical
6 practitioner. If you violate any conditions of release, you
7 could be brought back into court and your bail could be
8 revoked. Do you understand that?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: If you do not show up in court as
11 required, you could face a separate charge of bail-jumping and
12 face additional penalties including imprisonment, fines or
13 both. Do you understand that?

14 THE DEFENDANT: I do, your Honor.

15 THE COURT: Once the necessary papers are signed with
16 the clerk, you'll be released. I am going to direct you take
17 the defendant, Mr. Bader, down to the probation officer after
18 the papers are signed to commence the presentence investigation
19 process, and I'll direct the defendant also go down to the
20 United States Marshal to be processed.

21 MR. BADER: Yes, your Honor...

22 THE COURT: All right. Anything further?

23 MR. BADER: No, thank you, your Honor.

24 THE COURT: The matter is adjourned.

25 (Proceedings adjourned)